

Title 35-A: PUBLIC UTILITIES
Chapter 93: ADVANCED TECHNOLOGY INFRASTRUCTURE

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Maine Revised Statutes
Title 35-A: PUBLIC UTILITIES
Chapter 93: ADVANCED TECHNOLOGY INFRASTRUCTURE

§9201. SHORT TITLE

This chapter may be known and cited as "the Advanced Technology Infrastructure Act." [2005, c. 665, §3 (NEW).]

SECTION HISTORY

2005, c. 665, §3 (NEW).

§9202. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 665, §3 (NEW).]

1. Advanced communications technology infrastructure. "Advanced communications technology infrastructure" means any communications technology infrastructure or infrastructure improvement that expands the deployment of, or improves the quality of, broadband availability and wireless service coverage.

[2005, c. 665, §3 (NEW) .]

2. Authority. "Authority" means the ConnectME Authority established in section 9203.

[2005, c. 665, §3 (NEW) .]

3. Communications service. "Communications service" means any wireline voice, satellite, data, fixed wireless data or video retail service.

[2005, c. 665, §3 (NEW) .]

4. Communications service provider. "Communications service provider" means:

A. Any entity offering communications service to customers in the State; or [2005, c. 665, §3 (NEW) .]

B. Any facilities-based provider of wireless voice or data retail service that voluntarily chooses to be assessed by the authority pursuant to section 9211. [2005, c. 665, §3 (NEW) .]

[2005, c. 665, §3 (NEW) .]

5. Unserved or underserved area. "Unserved or underserved area" means an area that the authority pursuant to section 9204-A, subsection 1 determines to meet criteria established by the authority by rule adopted pursuant to section 9205, subsection 3.

[2015, c. 284, §2 (AMD) .]

SECTION HISTORY

2005, c. 665, §3 (NEW). 2015, c. 284, §2 (AMD).

§9202-A. STATE BROADBAND POLICY

1. Goals. The goals of the State related to broadband service are that:

- A. Broadband service be universally available in this State, including to all residential and business locations and community anchor institutions; [2015, c. 284, §3 (RPR).]
- B. There be secure, reliable, competitive and sustainable forward-looking infrastructure that can meet future broadband needs; and [2015, c. 284, §3 (RPR).]
- C. All residents, businesses and institutions in the State be able to take full advantage of the economic opportunities available through broadband service. [2015, c. 284, §3 (NEW).]

[2015, c. 284, §3 (RPR).]

2. Policies. The policies of the State related to broadband service are to:

- A. Maximize sustainable investment in broadband infrastructure in the State; [2015, c. 284, §3 (RPR).]
- B. Maximize federal and private resources to support the deployment of broadband infrastructure in unserved and underserved areas of the State; [2015, c. 284, §3 (RPR).]
- C. Prioritize the use of state resources to assist deployment of infrastructure to provide broadband service in unserved and underserved areas of the State; [2015, c. 284, §3 (RPR).]
- D. Promote adoption of broadband service by residents, businesses and institutions; and [2015, c. 284, §3 (RPR).]
- E. Leverage existing infrastructure to extend broadband service. [2015, c. 284, §3 (RPR).]

[2015, c. 284, §3 (RPR).]

SECTION HISTORY

2009, c. 586, §1 (NEW). 2015, c. 284, §3 (RPR).

§9203. CONNECTME AUTHORITY

1. Establishment; membership. The ConnectME Authority is established to further the goals and policies in section 9202-A. The authority is created as a body corporate and politic and a public instrumentality of the State. The exercise by the authority of powers conferred by this chapter is considered to be the performance of essential governmental functions. The authority consists of the following 7 voting members:

- A. The chair of the Public Utilities Commission or the chair's designee; [2005, c. 665, §3 (NEW).]
- B. The Chief Information Officer of the State or the officer's designee; [2015, c. 284, §4 (AMD).]
- C. One representative of consumers, appointed by the Governor; [2015, c. 284, §4 (AMD).]
- D. Two members with significant knowledge of communications technology, appointed by the Governor; [2015, c. 284, §4 (AMD).]
- E. The Commissioner of Economic and Community Development or the commissioner's designee; and [2015, c. 284, §4 (NEW).]
- F. One member with significant knowledge of telemedicine as defined in Title 24-A, section 4316, subsection 1, appointed by the Governor. [2015, c. 284, §4 (NEW).]

Compensation of members is as provided in Title 5, section 12004-G, subsection 33-F.

[2015, c. 284, §4 (AMD) .]

2. Terms; chair; vacancies. All members are appointed for 3-year terms. The Governor shall appoint a chair from among the 4 members appointed by the Governor. In the event of a vacancy in the membership, the Governor shall appoint a replacement member for the remainder of that vacated term. Each member of the authority serves until that member's successor is appointed and qualified. Any member of the authority is eligible for reappointment.

[2015, c. 284, §4 (AMD) .]

3. Officers; quorum. The authority may elect a secretary and a treasurer, who may, but need not, be members of the authority. Four members of the authority constitute a quorum, and the affirmative vote of 4 members is necessary for any action taken by the authority.

[2015, c. 284, §4 (AMD) .]

4. Participation by members. A member may participate in a meeting of the authority and place a vote electronically or telephonically as long as members of the public have an opportunity to listen to the deliberations of the authority and otherwise participate in or observe the proceedings of the authority consistent with Title 1, section 405.

[2005, c. 665, §3 (NEW) .]

5. Indemnification. Each member of the authority must be indemnified by the authority against expenses actually and necessarily incurred by the member in connection with the defense of any action or proceeding in which the member is made a party by reason of being or having been a member of the authority and against any final judgment rendered against the member in that action or proceeding.

[2005, c. 665, §3 (NEW) .]

6. Staff.

[2015, c. 284, §5 (RP) .]

SECTION HISTORY

2005, c. 665, §3 (NEW). 2015, c. 284, §§4, 5 (AMD).

§9204. DUTIES OF AUTHORITY

(REPEALED)

SECTION HISTORY

2005, c. 665, §3 (NEW). 2009, c. 63, §§1, 2 (AMD). 2015, c. 284, §6 (RP).

§9204-A. DUTIES OF AUTHORITY

1. Establish criteria defining unserved and underserved areas. The authority, by rule adopted pursuant to section 9205, subsection 3, shall establish criteria to define unserved and underserved areas with respect to broadband service. Criteria established by the authority to define unserved and underserved areas

must include the percentage of households with access to broadband service within a municipality or other appropriate geographic area. The authority shall use these criteria to determine those areas of the State that are unserved or underserved.

[2015, c. 284, §7 (NEW) .]

2. Promote use of broadband service. The authority shall promote use of broadband service by identifying and sharing best practices that encourage use of broadband service, eliminating barriers to use of broadband service and facilitating and supporting public-private partnerships to increase use of broadband service.

[2015, c. 284, §7 (NEW) .]

3. Support local and regional broadband planning. The authority shall provide technical and financial assistance to communities in the State that include unserved and underserved areas to identify the need for broadband infrastructure and services and develop and implement plans to meet those needs.

[2015, c. 284, §7 (NEW) .]

4. Support broadband investment. The authority shall expand the availability of broadband service to residential and small business customers in unserved or underserved areas by identifying, developing and providing funding for broadband investments in unserved and underserved communities. Such investments may include infrastructure that is used by a single provider or by multiple providers.

[2015, c. 284, §7 (NEW) .]

5. Facilitate state support of deployment of broadband infrastructure. The authority shall review, recommend and facilitate changes in laws, rules, programs and policies of the State and its agencies to further deployment of broadband infrastructure to all unserved and underserved areas of the State. The authority shall assist in identifying opportunities to use broadband infrastructure to achieve the state policies and goals as set out in section 9202-A and support coordination between communications providers and state and local governmental entities, including coordination with the statewide emergency radio network.

[2015, c. 284, §7 (NEW) .]

6. Collect and disseminate information. The authority shall collect, aggregate, coordinate and disseminate information regarding the availability of and need for advanced communications technology infrastructure in the State and opportunities for funding for broadband infrastructure and education.

[2015, c. 284, §7 (NEW) .]

7. Administer funds. The authority shall administer the ConnectME Fund as established pursuant to section 9211.

[2015, c. 284, §7 (NEW) .]

8. Limitations on activities of the authority. The authority may not develop, acquire, fund, coordinate or otherwise undertake any project or make any grant, direct investment or loan under this chapter unless the authority determines that without the authority's action the installation of adequate advanced communications technology infrastructure in an unserved or underserved area would not occur within the same time period. When providing grants, direct investment or loans for broadband infrastructure investments, the authority shall give preference to those investments that provide the greatest relative improvement to existing

broadband service in an unserved or underserved area. Notwithstanding any other provision of this chapter, the authority may not provide any wireline, wireless, satellite, voice, data or video service at retail or wholesale.

[2015, c. 284, §7 (NEW) .]

SECTION HISTORY

2015, c. 284, §7 (NEW) .

§9205. GENERAL POWERS

In order to carry out the purposes of this chapter, the authority has the following powers with respect to a project together with all powers incidental to or necessary for the performance of these powers: [2005, c. 665, §3 (NEW) .]

1. Power to sue and be sued. To sue or initiate or appear in any proceeding. The authority may be sued on its written contracts or in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;

[2005, c. 665, §3 (NEW) .]

2. Official seal. To adopt and have an official seal and alter the seal at pleasure;

[2005, c. 665, §3 (NEW) .]

3. Bylaws; rules. To adopt bylaws and any rule necessary or useful for carrying out any of the authority's powers or duties pursuant to this chapter. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A;

[2005, c. 665, §3 (NEW) .]

4. Acquire real or personal property. To acquire real or personal property or any interest in real or personal property, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise; to improve, hold, sell with or without public bidding, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, any interest in real or personal property or mortgage interests owned or in its control, custody or possession; and to release or relinquish any right, title claim, lien, interest, easement or demand, however acquired, including threat of foreclosure;

[2005, c. 665, §3 (NEW) .]

5. Prepare and plan projects and facilities. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment for a project and attendant facilities and from time to time to modify or cause to be modified those plans, specifications, designs or estimates;

[2005, c. 665, §3 (NEW) .]

6. Improve and equip project and attendant facilities. By contract or contracts to construct, acquire, alter, repair, reconstruct, rehabilitate, improve and equip a project and necessary and usual attendant facilities;

[2005, c. 665, §3 (NEW) .]

7. Maintain, reconstruct and operate. To maintain, reconstruct and operate, or cause to be maintained, reconstructed and operated, a project;

[2005, c. 665, §3 (NEW) .]

8. Fix and collect fees. To fix and collect fees, lease-rentals and other charges for the use of a project to transmit voice, data or video signals and to provide for the adoption of such reasonable and proper rules as may be necessary to ensure the maximum use at all times of the facilities of any project;

[2005, c. 665, §3 (NEW) .]

9. Provide for financing or refinancing. To provide financing for a project or to provide for refinancing of existing indebtedness and for the financing of the project and of other necessary and usual attendant facilities;

[2005, c. 665, §3 (NEW) .]

10. Make and execute contracts. To make and execute contracts and other instruments and enter into such transactions as necessary or convenient for the exercise of the authority's powers and functions under this chapter;

[2005, c. 665, §3 (NEW) .]

11. Agreements; acceptances; contributions; aid; grants. To enter into agreements with and accept loans, aid, contributions, grants and the cooperation or assistance of the United States, or any agency of the United States, or of the State or any agency or governmental subdivision in furtherance of the purposes of this chapter, including, but not limited to, the development and financing of a project, and to do all things necessary in order to avail the authority of those loans, aid, contributions, grants and cooperation;

[2005, c. 665, §3 (NEW) .]

12. Accept aid or contributions. To receive and accept from any source aid or contributions of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this chapter, subject to the conditions upon which those grants and contributions are made, including, but not limited to, gifts or grants from any department or agency of the United States or the State for any purpose consistent with this chapter;

[2005, c. 665, §3 (NEW) .]

13. Insurance. To procure insurance against any loss in connection with the authority's securities and its property and other assets in such amounts and from such insurers as it considers desirable;

[2005, c. 665, §3 (NEW) .]

14. Modification of contract, lease, indenture or agreement. To consent to any modification of any contract, lease, indenture or agreement of any kind to which the authority is a party;

[2005, c. 665, §3 (NEW) .]

15. Manage or operate real and personal property. To manage or operate, or cause to be managed or operated, real and personal property, to take assignments of leases and rentals or to take any other action necessary or incidental to the performance of the authority's duties under this chapter;

[2005, c. 665, §3 (NEW) .]

16. Lease or rent facilities or equipment used to transmit voice, data or video signals. To lease or rent any facilities or equipment for a project for such amounts as the authority determines to a communications service provider to further the purposes of this chapter, as long as the obligation of the service provider is considered a binding contract with the authority and as long as no liability on account of the authority may be incurred beyond the money available for that purpose and may be considered a liability of the State;

[2005, c. 665, §3 (NEW) .]

17. Investments. Except as otherwise provided in this chapter, to invest any funds not needed for immediate use, including any funds held in reserve, in property or in securities in which fiduciaries in the State may legally invest funds;

[2005, c. 665, §3 (NEW) .]

18. Appearances. To appear on the authority's own behalf before boards, commissions, departments or agencies of a municipality or the State Government or the Federal Government;

[2005, c. 665, §3 (NEW) .]

19. Executive director; other employees. To employ an executive director, consulting engineers, architects, attorneys, accountants, construction and financial experts and such other employees and agents as may be necessary in the authority's judgment; and

[2005, c. 665, §3 (NEW) .]

20. All acts granted or implied. To do any act necessary or convenient to exercise the powers granted in this chapter or reasonably implied by this chapter.

[2005, c. 665, §3 (NEW) .]

SECTION HISTORY

2005, c. 665, §3 (NEW) .

§9206. CONNECTME ADVISORY COUNCIL **(REPEALED)**

SECTION HISTORY

2005, c. 665, §3 (NEW). 2015, c. 284, §8 (RP) .

§9207. COLLECTION OF DATA

Subject to the provisions in this section, the authority may collect data from communications service providers and any wireless provider that own or operate advanced communications technology infrastructure in the State concerning infrastructure deployment and costs, revenues and subscribership. [2005, c. 665, §3 (NEW) .]

1. Confidential information. If the authority, on its own or upon request of any person or entity, determines that public access to specific information about communications service providers in the State could compromise the security of public utility systems to the detriment of the public interest or that specific information is of a competitive or proprietary nature, the authority shall issue an order designating that information as confidential. Information that may be designated as confidential pursuant to this subsection includes, but is not limited to, network diagrams. The authority may designate information as confidential under this subsection only to the minimum extent necessary to protect the public interest or the legitimate

competitive or proprietary interests of a communications service provider. The authority shall adopt rules pursuant to section 9205, subsection 3 defining the criteria it will use to satisfy the requirements of this paragraph and the types of information that would satisfy the criteria. The authority may not designate any information as confidential under this subsection until those rules are finally adopted.

Information designated as confidential under this subsection is not a public record under Title 1, section 402, subsection 3.

[2005, c. 665, §3 (NEW) .]

2. Protection of information. A communications service provider may request that confidential or proprietary information provided to the authority under subsection 1 not be viewed by those members of the authority who could gain a competitive advantage from viewing the information. Upon such a request, the authority shall ensure that the information provided is viewed only by those members of the authority and staff who do not stand to gain a competitive advantage and that there are adequate safeguards to protect that information from members of the authority who could gain a competitive advantage from viewing the information.

[2005, c. 665, §3 (NEW) .]

SECTION HISTORY

2005, c. 665, §3 (NEW).

§9208. LEGISLATIVE OVERSIGHT; REPORT TO COMMITTEE

No later than January 15th of each year, the authority shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities matters that: [2005, c. 665, §3 (NEW) .]

1. Budget. Includes a report on the budget of the authority;

[2005, c. 665, §3 (NEW) .]

2. Activities. Documents the activities of the authority, including a detailed description of the progress toward the goals and objectives established in the triennial strategic plan under section 9218;

[2015, c. 284, §9 (AMD) .]

3. Investments. Contains a listing of any investments of money in the ConnectME Fund, as established pursuant to section 9211, and a tracking of the infrastructure improvements resulting from the investments; and

[2005, c. 665, §3 (NEW) .]

4. Market conditions. Contains an analysis of the availability of communications services and advanced communications technology infrastructure, including an analysis of the competitive market in the State for communications services and advanced communications technology infrastructure and whether the communications services provided in the State are reasonably comparable to services provided regionally and nationwide.

[2005, c. 665, §3 (NEW) .]

After receiving a report under this section, the joint standing committee of the Legislature having jurisdiction over utilities matters may report out legislation relating to the authority. [2005, c. 665, §3 (NEW) .]

SECTION HISTORY

2005, c. 665, §3 (NEW). 2015, c. 284, §9 (AMD).

§9209. CONFLICTS

A member of the authority may not participate in any decision on any contract entered into by the authority under this chapter if that member has any interest, direct or indirect, in any firm, partnership, corporation or association that is party to the contract. The interest must be disclosed to the authority in writing and must be set forth in the minutes of the authority. [2005, c. 665, §3 (NEW) .]

SECTION HISTORY

2005, c. 665, §3 (NEW).

§9210. ACTIONS AGAINST AUTHORITY

A member of the authority, while acting within the scope of this chapter, is not subject to any personal liability resulting from the exercise or carrying out of any of the authority's purposes or powers. [2005, c. 665, §3 (NEW) .]

SECTION HISTORY

2005, c. 665, §3 (NEW).

§9211. CONNECTME FUND

1. ConnectME Fund established. The ConnectME Fund, referred to in this section as "the fund," is established as a nonlapsing fund administered by the authority for the purposes of supporting the activities and projects of the authority under this chapter.

[2005, c. 665, §3 (NEW) .]

2. Assessment. After receiving authorization pursuant to Title 5, section 8072 to finally adopt major substantive rules under section 9205, subsection 3 or after January 15, 2007, whichever is later, the authority may require every communications service provider to contribute on a competitively neutral basis to the fund. The assessment may not exceed 0.25% of the revenue received or collected for all communications services provided in this State by the communications service provider. A facilities-based provider of wireless voice or data retail service may voluntarily agree to be assessed by the authority as a communications service provider under this subsection.

[2005, c. 665, §3 (NEW) .]

3. Explicit identification on customer bills. A communications service provider assessed pursuant to subsection 2 may recover the amount of the assessment from the provider's customers. If a provider recovers the amount from its customers, it must explicitly identify the amount owed by a customer on the customer's bill and indicate that the funds are collected for use in the ConnectME Fund.

[2005, c. 665, §3 (NEW) .]

SECTION HISTORY

2005, c. 665, §3 (NEW).

§9211-A. MUNICIPAL GIGABIT BROADBAND NETWORK ACCESS FUND

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applicant" means a community, regional partnership or municipality that applies for a grant under this section. [2015, c. 323, §1 (NEW).]

B. "Community" means a municipality with a population of at least 1,200 people, as determined by the authority in accordance with the United States Census data, or a municipality that has received a waiver from this population requirement from the authority upon a determination that the municipality is in an unserved or underserved area. [2015, c. 323, §1 (NEW).]

C. "Fund" means the Municipal Gigabit Broadband Network Access Fund established in this section. [2015, c. 323, §1 (NEW).]

D. "Regional partnership" means 2 or more municipalities that do not, on their own, meet the requirements of paragraph B and have joined together with one or more contiguous municipalities in the region to achieve the population requirements of paragraph B. [2015, c. 323, §1 (NEW).]

[2015, c. 323, §1 (NEW) .]

2. Fund established. The Municipal Gigabit Broadband Network Access Fund is established as a nonlapsing, revolving fund administered by the authority for the purposes of supporting the activities and projects of the authority under this section. All money in the fund must be continuously applied by the authority to carry out this section. The authority may receive and deposit in the fund funds from the following sources:

A. Federal funds and awards that may be used for the purposes of this section; [2015, c. 323, §1 (NEW) .]

B. The proceeds of bonds issued for the purposes of this section; and [2015, c. 323, §1 (NEW) .]

C. Any other funds from public or private sources received in support of the purposes for which the fund is established. [2015, c. 323, §1 (NEW).]

[2015, c. 323, §1 (NEW) .]

3. Purpose of the fund. The fund is established to address the need in the State for access to ultra high-speed broadband infrastructure that will enhance the State's competitiveness in national and international economies. To the extent funds are available, the fund must be used to provide grants to communities, regional partnerships and municipalities to support public-private partnerships to support a municipal gigabit fiber-optic broadband network in their regions with the following goals:

A. Provide high-speed broadband access to attract, create and grow the State's economy and market the products and services of businesses in the State in national and international markets with ultra high-speed symmetric connectivity and address challenges in geography; [2015, c. 323, §1 (NEW) .]

B. Provide expanded health care services by facilitating access to telemedicine, as defined in Title 24-A, section 4316, subsection 1, and state and local services for senior citizens and persons with disabilities; [2015, c. 323, §1 (NEW).]

C. Expand educational opportunities for students across the State through virtual and distance learning; [2015, c. 323, §1 (NEW).]

D. Facilitate broader access for the public to services provided by municipal and county governments, including, but not limited to, law enforcement entities, the judicial system and child, youth and family social services; and [2015, c. 323, §1 (NEW).]

E. Provide expanded residential services to support employment opportunities. [2015, c. 323, §1 (NEW).]

In order to facilitate the achievement of the goals and policies of this section, the authority shall establish and regularly update, after opportunity for public comment and taking into consideration relevant federal policies, definitions of "gigabit fiber-optic broadband network" and "ultra high-speed broadband infrastructure."

[2015, c. 323, §1 (NEW).]

4. Implementation grants; maximum awards. To the extent funds are available, the authority shall award implementation grants to achieve the purpose of the fund as described in subsection 3 as follows.

A. An implementation grant to an applicant may not exceed \$200,000 for each eligible project selected for funding. [2015, c. 323, §1 (NEW).]

B. An implementation grant may be awarded only to an applicant that has demonstrated to the satisfaction of the authority that it has participated in a planning grant process as described in subsections 5, 6 and 7. [2015, c. 323, §1 (NEW).]

C. Municipalities selected for funding must be required to provide a 25% cash match. [2015, c. 323, §1 (NEW).]

[2015, c. 323, §1 (NEW).]

5. Planning grants; requirements for applicants. In order to assist applicants with completion of the planning process necessary to achieve the goals of this section, to the extent funds are available, the authority shall award planning grants of up to \$20,000 for community applicants and up to \$25,000 for regional partnerships and municipalities, which require a cash match. The authority shall establish application requirements for planning grants for community and regional applicants that require an applicant to demonstrate to the satisfaction of the authority participation with public and private institutions and local businesses in the development of the grant process. Municipal applicants must provide the authority with the following information:

A. A plan that identifies how the municipality will use ultra high-speed broadband access to fulfill the economic goals of the municipality; [2015, c. 323, §1 (NEW).]

B. A written commitment to nondiscriminatory open access to the broadband infrastructure by all parties involved in the grant; [2015, c. 323, §1 (NEW).]

C. A written summary of public forums used to gather information from the public in establishing the goals for the grant that serve the goals of this section; [2015, c. 323, §1 (NEW).]

D. Information gathered from local public and private institutions that identifies how the broadband services will expand access to state and local services identified under subsection 3; and [2015, c. 323, §1 (NEW).]

E. A summary of input received from the business community to identify the services that will be used in planning the implementation grant application. [2015, c. 323, §1 (NEW).]

[2015, c. 323, §1 (NEW).]

6. Planning grant requirements. An applicant awarded a planning grant under subsection 5 must provide to the authority:

A. Identification of the local broadband needs and goals; [2015, c. 323, §1 (NEW).]

B. An inventory of existing broadband infrastructure assets within the municipality, municipalities or region; [2015, c. 323, §1 (NEW).]

C. The results of a gap analysis that defines the additional broadband infrastructure necessary to meet identified needs and goals; [2015, c. 323, §1 (NEW).]

D. One or more potential network designs, cost estimates, operating models and potential business models, based on input from broadband providers operating within the municipality, municipalities or region and any other parties that submit a network design solution, to address any broadband gaps identified in the analysis described in paragraph C; and [2015, c. 323, §1 (NEW).]

E. An assessment of all existing municipal procedures, policies, rules and ordinances that may have the effect of delaying or increasing the cost of broadband infrastructure deployment. [2015, c. 323, §1 (NEW).]

[2015, c. 323, §1 (NEW).]

7. Cash match for planning grants; restrictions. The cash match required from the applicant for a planning grant under subsection 5 may consist of municipal appropriations, private funds, funding from economic development entities and funding from nonprofit entities. The cash match for planning grants may not consist of funds provided by a vendor or private business that proposes to build, operate or provide retail services using the gigabit fiber-optic broadband network.

[2015, c. 323, §1 (NEW).]

8. Technical assistance; contract for services. The authority may provide technical assistance to applicants that request assistance with the grant application process. The authority may contract for services to assist in the administration, management and evaluation of the fund.

[2015, c. 323, §1 (NEW).]

9. Rules; application procedure. The authority shall adopt rules to implement this section, including rules governing the application process for the fund. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2015, c. 323, §1 (NEW).]

10. Report. Beginning December 15, 2016, the authority shall provide an annual report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters on the grants distributed from the fund and an analysis of the fund's activities that have addressed the need for expansion of ultra high-speed broadband access in the State.

[2015, c. 323, §1 (NEW).]

SECTION HISTORY

2015, c. 323, §1 (NEW).

§9212. GIFTS AND CONTRIBUTIONS

The authority may accept gifts and contributions on behalf of the authority for the purpose of designing, constructing, reconstructing, renovating or acquiring a project. [2005, c. 665, §3 (NEW).]

The authority, in accepting gifts of money, federal funds or other types of income, shall place this money in a special account for the purpose for which it is provided. The authority may invest the money in accordance with the purposes of this chapter, subject to any limitations imposed by the donor. [2005, c. 665, §3 (NEW).]

SECTION HISTORY

2005, c. 665, §3 (NEW).

§9213. USE OF REVENUES

The revenues derived by the authority from any assessment, transfer of funds, lease, assignment, rental agreement or other disposition or any other revenue must be used for the purposes of this chapter and applied in a competitively neutral fashion and without giving preference to any one form of technology over another. [2005, c. 665, §3 (NEW).]

SECTION HISTORY

2005, c. 665, §3 (NEW).

§9214. NO FRANCHISE FEES

The authority may not establish or collect a franchise fee pursuant to 47 United States Code, Section 542 or Title 30-A, section 3008. If any tax, fee, charge or assessment or portion thereof established by the authority is held by a court of competent jurisdiction to be a franchise fee, the imposition of that tax, fee, charge or assessment or portion thereof is unenforceable. [2005, c. 665, §3 (NEW).]

SECTION HISTORY

2005, c. 665, §3 (NEW).

§9215. REPEAL

(REPEALED)

SECTION HISTORY

2005, c. 665, §3 (NEW). 2007, c. 698, §1 (RP).

§9216. BROADBAND SUSTAINABILITY FEE

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "First assessment period" means the period:

- (1) Commencing on the first day of the month following the date on which a dark fiber provider first sells, leases or otherwise provides one or more strands of federally supported dark fiber to an entity in this State; and
- (2) Ending on the last day of the 60th month following the commencement under subparagraph (1) or 90 days after the adjournment of the First Regular Session of the 127th Legislature, whichever comes first. [2015, c. 151, §1 (AMD).]

B. "Incumbent local exchange carrier" means a telephone utility that provided single-party service, voice grade access to the public switched telephone network in a defined service territory in the State on February 8, 1996, or its successor, or that is designated as an incumbent local exchange carrier pursuant to 47 United States Code, Section 251(h)(2). [2009, c. 612, §10 (NEW).]

C. "Second assessment period" means the period:

- (1) Commencing on the first day of the month following the end of the first assessment period; and
- (2) Ending 90 days after the adjournment of the First Regular Session of the 127th Legislature. [2015, c. 151, §1 (AMD).]

[2015, c. 151, §1 (AMD).]

2. Broadband sustainability fee. Until 90 days after the adjournment of the First Regular Session of the 127th Legislature, an entity that purchases, leases or otherwise obtains federally supported dark fiber from a dark fiber provider is subject to the following broadband sustainability fees:

A. During the first assessment period, a monthly fee equal to \$3 multiplied by the number of miles of federally supported dark fiber strand purchased, leased or used by the entity during the month; and [2009, c. 612, §10 (NEW).]

B. During the 2nd assessment period, a monthly fee equal to \$2 multiplied by the number of miles of federally supported dark fiber strand purchased, leased or used by the entity during the month. [2009, c. 612, §10 (NEW).]

[2015, c. 151, §2 (AMD) .]

3. Collection. A dark fiber provider shall collect the broadband sustainability fees under subsection 2 and within 15 days after the end of each month remit the amounts collected to the authority. When remitting funds to the authority, the dark fiber provider shall include sufficient information to allow the authority to determine the number of miles of federally supported dark fiber strands sold, leased or used in the service territory of each incumbent local exchange carrier.

[2009, c. 612, §10 (NEW) .]

4. Deposit. The authority shall:

A. Deposit 5% of the funds received under subsection 3 into the ConnectME Fund established under section 9211 and may use these funds to support the activities of the authority under this section and for the purposes of section 9204-A; and [2015, c. 284, §10 (AMD).]

B. Deposit 95% of the funds received under subsection 3 into the broadband sustainability fund established pursuant to subsection 5. [2009, c. 612, §10 (NEW).]

[2015, c. 284, §10 (AMD) .]

5. Broadband sustainability fund. The authority shall establish a broadband sustainability fund, separate and distinct from any other funds held or maintained by the authority, for use in accordance with subsection 6. The fund is nonlapsing and all interest on funds in the fund remains in the fund for use in accordance with subsection 6. The authority may contract with an appropriate independent fiscal agent that is not a state entity to serve as the administrator of the fund.

[2015, c. 151, §2 (AMD) .]

6. Use of the broadband sustainability fund. The authority shall use funds in the broadband sustainability fund established pursuant to subsection 5 to support and promote broadband service in unserved or underserved areas.

A. [2015, c. 151, §2 (RP).]

B. [2015, c. 151, §2 (RP).]

C. [2015, c. 151, §2 (RP).]

D. [2015, c. 151, §2 (RP).]

[2015, c. 151, §2 (AMD) .]

SECTION HISTORY

2009, c. 612, §10 (NEW). 2015, c. 151, §§1, 2 (AMD). 2015, c. 284, §10 (AMD).

§9217. COMMUNITY BROADBAND PLANNING

The authority shall provide funds for broadband planning grants to municipalities, groups of municipalities or nonprofit local or regional community organizations that are providing local or regional economic development programs to develop plans to expand the availability of broadband services in unserved and underserved areas. [2015, c. 284, §11 (NEW).]

1. Requirements of plans. Plans funded through grants under this section must:

A. Define local broadband needs and goals; [2015, c. 284, §11 (NEW).]

B. Inventory existing broadband infrastructure assets within the municipality, municipalities or region; [2015, c. 284, §11 (NEW).]

C. Include a gap analysis defining the additional broadband infrastructure necessary to meet identified needs and goals; [2015, c. 284, §11 (NEW).]

D. Include one or more potential network designs, cost estimates, operating models and potential business models based on input from broadband providers operating within the municipality, municipalities or region and any other parties that submit a network design solution in the course of developing the plan to address any broadband gaps identified in paragraph C; and [2015, c. 284, §11 (NEW).]

E. Include an assessment of all municipal procedures, policies, rules and ordinances that have the effect of delaying or increasing the cost of broadband infrastructure deployment. [2015, c. 284, §11 (NEW).]

The authority shall make all plans developed using grant funds under this section available on the authority's publicly accessible website.

[2015, c. 284, §11 (NEW).]

2. Distribution of grants. The authority shall ensure that planning grants under this section are equitably distributed throughout the unserved and underserved areas of the State and that the grants encourage collaboration between multiple communities.

[2015, c. 284, §11 (NEW).]

3. Precertification. The authority may establish a precertification process to determine eligibility for planning grants under this section to encourage adoption of identified best practices by participating municipalities and organizations.

[2015, c. 284, §11 (NEW).]

4. Limitations on matching funds. Matching funds provided by a municipality for planning grants under this section may not consist of in-kind contributions from the municipality or funds provided by a vendor or private business that proposes to build, operate or provide retail services using broadband infrastructure constructed pursuant to the planning grant.

[2015, c. 284, §11 (NEW).]

SECTION HISTORY

2015, c. 284, §11 (NEW).

§9218. BROADBAND SERVICE STRATEGIC PLAN

1. Broadband service strategic plan. The authority shall draft a detailed, triennial strategic plan for broadband service that includes quantifiable measures of performance to carry out the duties in section 9204-A and to further the goals and policies in section 9202-A. The strategic plan must include, but is not limited to, budget allocations, objectives, targets, measures of performance, implementation strategies, timelines, a definition of "broadband" and other relevant information.

[2015, c. 284, §11 (NEW) .]

2. Public input. The authority shall post the draft of the triennial strategic plan pursuant to subsection 1 on the authority's publicly accessible website 90 days before the date on which the plan will be voted on and provide opportunity for written comments and a public hearing at least 30 days prior to voting.

[2015, c. 284, §11 (NEW) .]

3. Approval of triennial strategic plan. The authority shall approve the triennial strategic plan pursuant to subsection 1 by affirmative vote of 2/3 of its members upon a finding that the plan is consistent with the policies, duties and requirements of the authority as set forth in this chapter.

[2015, c. 284, §11 (NEW) .]

SECTION HISTORY

2015, c. 284, §11 (NEW) .

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